

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

<b>DANIEL L. JOHNSON,</b>  v.  <b>MARTY GARRISON, et al.,</b>	) ) Plaintiff, ) ) ) ) Defendants. )	<b>No. CIV 18-152-Raw-SPS</b>
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**OPINION AND ORDER**

Plaintiff has filed a motion and affidavit to disqualify the district judge under 28 U.S.C. § 144 and § 455(a) (Dkt. 38). Plaintiff alleges the district judge has shown personal bias or prejudice against him or in favor of Defendants. Plaintiff bases his claim on the Tenth Circuit’s statement in its Order and Judgment that the “district court failed to address Johnson’s argument that the statute of limitations was tolled while his grievance was pending.” *Johnson v. Garrison*, No. 19-7018, slip op. at 7 (10th Cir. Mar. 24, 2020) (Dkt. 39).

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. . . .

28 U.S.C. § 144. Section 455(a) states, “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

Plaintiff has not pointed to any act or speech by the district judge indicating bias, prejudice, or the appearance of impropriety. *See Mitchell v. Maynard*, 80 F.3d 1433, 1450 (10th Cir. 1996) (noting even appearance of impropriety must be avoided). To the extent

Plaintiff is relying on adverse rulings to show bias, “adverse rulings against a litigant cannot in themselves form the appropriate grounds for disqualification.” *Green v. Dorrell*, 969 F.2d 915, 919 (10th Cir. 1992), *cert. denied*, 507 U.S. 940 (1993).

**ACCORDINGLY**, Plaintiff’s motion to disqualify the district judge (Dkt. 38) is DENIED.

**IT IS SO ORDERED** this 17th day of April 2020.



Ronald A. White  
United States District Judge  
Eastern District of Oklahoma